

**REMARKS**

Claims 2-15, 17-26, 28-37 and 41-43 are pending in the present application.

In the above amendments, claims 2-3, 8, 10-11, 17-19, 25, 32, 35-36 and 41-43 have been amended, and claims 1, 16, 27 and 38-40 have been canceled without prejudice.

Applicant respectfully responds to this Office Action.

***Allowable Claims***

Claims 2 and 5-7, 12, 17 and 27 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the respective base claims. Applicants express appreciation for the indication that these claims are allowable. Claims 2 and 17 have been rewritten in independent form including all of the limitations of the respective base claims. Independent Claim 25 was amended to include all of the limitations in dependent claim 27. Accordingly, allowance of claims 2 and 5-7, 12, 17 and 25 is requested.

***Claim Rejections – 35 USC § 112***

Claim 10 is rejected under 35 U.S.C 112, second paragraph, as being indefinite for the use of “zero or more”. Claim 10 has been amended to remove the use of the “zero or more”. Accordingly, the rejection of claim 10 should be withdrawn.

***Claim Rejections – 35 USC § 101***

Claims 41-43 are rejected under 35 U.S.C 101 as being directed to non-statutory subject matter. Claims 41-43 have been amend using the preamble language suggested by the examiner. Accordingly, the rejections of claims 41-43 should be withdrawn.

***Claim Rejections – 35 USC § 102***

Claims 24, 34, 37 and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,760,303 to Esteves et al. Claims 3, 8-11, 13-15, 18-26 and 29-43 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 2004/0203973 to Khan.

It is respectfully submitted that dependent claims 3, 8-11, 13-15, 18-23, 26, 29-31 and 33 are at least allowable for dependent upon an allowable base claim.

Independent claims 35 and 41 are device and computer readable media claims having features defined by language similar to that of apparatus claim 2. Claims 32, 36 and 42 are method, device and computer readable media claims having features defined by language similar to that of apparatus claim 17. Accordingly, claims 32, 35-36 and 41-42 should be allowable based on the allowable subject matter of claims 2 and 17.

Claim 24 is rejected under 35 U.S.C 102(b) as being anticipated by the Esteves et al., and under 35 U.S.C 102(e) as being anticipated by U.S patent application publication 2004/0203973 to Khan. Claim 24 recites an apparatus comprising a receiver for receiving a first rate control channel and a second rate control channel; and a processor for determining a rate control command from the first rate control channel in a first mode and a second rate control channel in a second mode. The Esteves Patent fails to disclose a first rate control channel and a second rate control channel. Likewise, the Khan publication fails to disclose a first rate control channel and a second rate control channel. Instead, the Khan publication describes the use of a signaling channel HS-DPCCH (High Speed Dedicated Physical Control Channel). See, page 1, paragraph [0004], page 2, paragraph [0015], and page 3, paragraph [0018]. Accordingly, the rejections of claim 24 as allegedly anticipated by the Esteves patent, or by the Khan publication, should be withdrawn.

Independent claims 34, 37 and 43 are method, device and computer readable media claims having features defined by language similar to that of method claim 24. Accordingly, for the reasons recited above with respect to claim 24, claims 34, 37 and 43 define patentable advances over Esteves patent, and over the Khan publication, and the rejections of claims 34, 37 and 43 should be withdrawn.

***Claim Rejections – 35 USC § 103***

Claims 4 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Khan publication. It is respectfully submitted that dependent claims 4 and 28 should be allowable based on the allowable subject matter of independent claims 2 and 25, respectively.

**REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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